

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

No. 18 Civ. 2949 (ARR) (JAM)

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

**DECLARATION OF MICHAEL D. MATTHEWS, JR. IN SUPPORT OF XOOM'S
MOTION TO EXCLUDE PLAINTIFF'S UNTIMELY EXPERT DISCLOSURES**

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Declaration in support of XOOM'S Motion to Exclude Plaintiff's Untimely Expert Disclosures.

1. Annexed hereto as **Exhibit A-1** is a true and correct copy of relevant excerpts from the deposition of Seabron Adamson dated November 8, 2022.
2. Annexed hereto as **Exhibit A-2** is a true and correct copy of is a true and correct copy of the Expert Report of Derya Eryilmaz and Seabron Adamson dated October 3, 2022, without its attachments.
3. Annexed hereto as **Exhibit A-3** is a true and correct copy of is a true and correct copy of the Amended Expert Report of Seabron Adamson dated May 10, 2024 and served on XOOM at 11:47 pm EDT that day, without its attachments.

4. Annexed hereto as **Exhibit A-4** is a true and correct copy of relevant excerpts from the deposition of Derya Eryilmaz dated November 15, 2022.

5. Annexed hereto as **Exhibit A-5** is a true and correct copy of is a true and correct copy of Exhibit 1 to the Expert Report of Derya Eryilmaz and Seabron Adamson dated October 3, 2022.

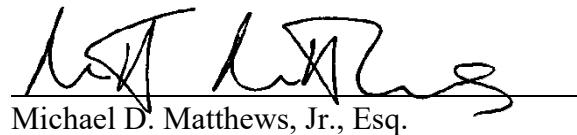
6. Annexed hereto as **Exhibit A-6** is a true and correct copy of relevant excerpts from the transcript of proceedings held before Judge Marutollo on January 19, 2024.

7. Annexed hereto as **Exhibit A-7** is a true and correct copy of of the Expert Report of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

8. Annexed hereto as **Exhibit A-8** is a true and correct copy of relevant excerpts from the Deposition of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 30, 2024.



Michael D. Matthews, Jr., Esq.